

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2338

Introduced by Assembly Member Conway

February 19, 2010

An act to amend Section 38026 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2338, as amended, Conway. Vehicles: off-highway vehicle recreation.

(1) Existing law authorizes an off-highway motor vehicle that has been issued a plate or device to be operated or driven upon a highway under certain circumstances. Existing law also authorizes various public entities, and the Director of Parks and Recreation, to designate a highway, or portion thereof, for the combined use of regular vehicular traffic and off-highway motor vehicles if certain requirements are met. Existing law prohibits a highway from being designated for this combined use for a distance of more than 3 miles.

This bill would exempt from this prohibition a ~~highway~~ *county road located in an unincorporated area* in the County of Inyo unless the commissioner of the Department of the California Highway Patrol finds that a highway in the county is not designed and constructed to permit the safe driving of both regular vehicular traffic and off-highway motor vehicles.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Inyo.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:
2 (a) Inyo County is a rural county with a population of 18,152
3 people.
4 (b) Inyo County comprises of 10,140 square miles.
5 (c) Inyo County is the second largest county in the United States,
6 in terms of land mass, yet only 2 percent of this land is inhabited.
7 (d) Ninety-two percent of land in Inyo County is federally ~~owned~~
8 *administered public lands*.
9 (e) Inyo County has outstanding natural diversity, including
10 Mount Whitney in the eastern Sierra, the highest peak in the
11 contiguous United States, as well as Death Valley, the lowest point
12 in the United States and the largest national park in the contiguous
13 United States.
14 (f) With six million acres of public land, Inyo County offers
15 numerous opportunities to explore and recreate.
16 SEC. 2. Section 38026 of the Vehicle Code is amended to read:
17 38026. (a) (1) In addition to Section 38025 and after
18 complying with subdivision (c) of this section, if a local authority,
19 an agency of the federal government, or the Director of Parks and
20 Recreation finds that a highway, or a portion thereof, under the
21 jurisdiction of the authority, agency, or the director, as the case
22 may be, is located in a manner that provides a connecting link
23 between off-highway motor vehicle trail segments, between an
24 off-highway motor vehicle recreational use area and necessary
25 service facilities, or between lodging facilities and an off-highway
26 motor vehicle recreational facility, and if it is found that the
27 highway is designed and constructed so as to safely permit the use
28 of regular vehicular traffic and also the driving of off-highway
29 motor vehicles on that highway, the local authority, by resolution
30 or ordinance, agency of the federal government, or the Director
31 of Parks and Recreation, as the case may be, may designate that
32 highway, or a portion thereof, for combined use and shall prescribe
33 rules and regulations therefor.

1 (2) (A) A highway, or portion thereof, shall not be designated
2 for combined use under this section for a distance of more than
3 three miles.

4 (B) Subparagraph (A) does not apply to ~~a highway in a county~~
5 *road located in an unincorporated area of* the County of Inyo
6 unless the Commissioner of the Department of the California
7 Highway Patrol finds that a highway in the county is not designed
8 and constructed to permit the safe driving of both regular vehicular
9 traffic and off-highway motor vehicles.

10 (3) A freeway shall not be designated under this section.

11 (b) The Off-Highway Motor Vehicle Recreation Commission
12 may propose highway segments for consideration by local
13 authorities, an agency of the federal government, or the Director
14 of Parks and Recreation for combined use.

15 (c) Prior to designating a highway or portion thereof on the
16 motion of the local authority, an agency of the federal government,
17 or the Director of Parks and Recreation, or as a recommendation
18 of the Off-Highway Motor Vehicle Recreation Commission, a
19 local authority, an agency of the federal government, or the
20 Director of Parks and Recreation shall notify the Commissioner
21 of the California Highway Patrol, and shall not designate any
22 segment pursuant to subdivision (a) that, in the opinion of the
23 commissioner, would create a potential traffic safety hazard.

24 (d) (1) A designation of a highway, or a portion thereof, under
25 subdivision (a) shall become effective upon the erection of
26 appropriate signs of a type approved by the Department of
27 Transportation on and along the highway, or portion thereof.

28 (2) The cost of the signs shall be reimbursed from the
29 Off-Highway Vehicle Trust Fund, when appropriated by the
30 Legislature, or by expenditure of funds from a grant or cooperative
31 agreement made pursuant to Section 5090.50 of the Public
32 Resources Code.

33 SEC. 3. The Legislature finds and declares that a special law
34 is necessary and that a general law cannot be made applicable
35 within the meaning of Section 16 of Article IV of the California
36 Constitution because the County of Inyo is a rural and remote
37 county that contains six million acres of public land for exploration
38 and recreation and the use of off-highway motor vehicles is a

- 1 popular and common mode of transportation for residents and
- 2 visitors of the county.

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